

Appl. No. 10/045,724
Response dated April 16, 2007
Reply to Office Action of November 16, 2007

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Remarks/Arguments

Claims 1-20 are pending and stand rejected on varying grounds under §103(a).

Claims 1, 11, and 18 have been amended to further clarify the claimed invention. New claim 21 and 22 have been added.

In view of the comments below, Applicant respectfully requests that the Examiner reconsider the present application including claims 1-21 and withdraw the rejection of claims 1-20.

a) On April 13, 2007, Examiner, Joseph E Avellino and Applicant's representative, Charles W. Bethards participated in a telephonic interview.

During the interview it was noted that the claims in varying form recite identifying a desired function, etc. US Patent No. 6,774,813 by van Ee et al. identifies a device to a website and in the end obtains a complete set of control information for that device. Examiner Avellino had interpreted van Ee et al and the implicit desired complete control of the device as showing identifying the desired function as claimed.

Examiner Avellino suggested that amending the claims to more clearly distinguish the desired function from complete control (i.e., all functions) would likely overcome the van Ee et al reference. Examiner Avellino cautioned that no assurances could be provided regarding other

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unknown references. For example, Examiner Avellino referred Representative Bethards to US Publication 2006/0200538 by Yuh et al. (specifically FIG. 2).

b) Yuh et al., US Publication 2006/0200538, application number 11/406,721, was filed on April 19, 2006 as a continuation of application number 10/151,501. Application number 10/151,501 was filed on May 20, 2002 as a continuation-in-part of application number 09/905,423. Application number 09/905,423 was filed on July 13, 2001 and claimed priority from provisional application number 60/264,767, which was filed on January 29, 2001.

Based on Applicant's review of Yuh et al. and the parents thereof, FIG. 2 and the corresponding material was first presented in application number 10/151,501 (CIP filed on May 20, 2002). Thus, FIG. 2 and corresponding subject matter is only accorded a priority date equal to the filing date of the CIP, which is later than the October 26, 2001 filing date of the present application.

Hence, even assuming *arguendo* that FIG. 2 and the corresponding subject matter of Yuh et al shows or suggests the relevant features of the pending claims, this reference is not a proper reference to support a §102(e) rejection of such claims, given the later filing date for this subject matter.

c) Claims 1-3, 5, 8, 9, 11-12, 15 and 17-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over van Ee et al (US Patent No. 6,774,813) in view of Rosenberg et al (US Pub. No. 2003/0013434).

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Applicant as suggested above has amended, in varying form, each of these claims (specifically independent claims 1, 11, and 18) to further clarify that the claimed desired function is but a portion of all functions that may be performed by the device.

As noted above it is believed that Ee et al, taken alone or together with Rosenberg et al, does not show or suggest this feature and thus, at least for this reason, all features of any of these claims have not been taught by these references.

Hence, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-3, 5, 8, 9, 11-12, 15 and 17-20 under 35 U.S.C. 103(a) as being unpatentable over van Ee et al (US Patent No. 6,774,813) in view of Rosenberg et al (US Pub. No. 2003/0013434).

d) Claims 4, 6, 7, 14 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over van Ee et al (US Patent No. 6,774,813) in view of Rosenberg et al (US Pub. No. 2003/0013434) in view of Maymudes (US Patent No. 6,748,278).

Each of these claims is dependent on either claim 1 or claim 11. Claim 1 and claim 11 are allowable over this combination of references and thus, at least by virtue of dependency, these claims are likewise allowable.

Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 4, 6, 7, 14 and 16 under 35 U.S.C. 103(a) as being unpatentable over van Ee et al (US Patent No. 6,774,813) in view of Rosenberg et al (US Pub. No. 2003/0013434) and further in view of Maymudes (US Patent No. 6,748,278).

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e) Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over van Ee et al (US Patent No. 6,774,813) in view of Rosenberg et al (US Pub. No. 2003/0013434) in view of Baun et al. (US Pub. No. 2003/0197930).

Claim 10 is dependent on claim 11. Claim 11 is allowable over this combination of references. Thus claim 10, at least by virtue of dependency, is similarly allowable.

Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over van Ee et al (US Patent No. 6,774,813) in view of Rosenberg et al (US Pub. No. 2003/0013434) and further in view of Baun et al. (US Pub. No. 2003/0197930).

f) New claims 21-22 have been provided.

New claim 21 recites explicitly identifying a desired function to a website.

The implicit desired complete control of a selected device as shown or taught by van Ee et al does not teach or suggest such explicit identification as claimed.

Thus claim 21 and dependent claim 22 are allowable over this reference or any combination of references that are presently of record.

Accordingly, Applicant respectfully submits that the claims, as pending, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable.

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Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable, other than the separately noted two month extension of time fee and additional claims fee, the Commissioner is hereby authorized to charge any fees that may be required or credit any overpayments to Deposit Account No. **50-3435**.

Respectfully submitted,

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